

# REDACTED

## EXHIBIT 7

**SIMO Holdings Inc.**


**v.**

**Hong Kong uCloudlink Network Technology Limited, and  
uCloudlink America, Ltd.**

**Case No. 18-cv-5427 JSR**

**Expert Rebuttal Report of John L. Hansen**

**TM Financial Forensics, LLC  
February 1, 2019**



John L. Hansen



name Roaming Man.<sup>41</sup> In September 2015, uCloudlink released the first 4G mobile Wi-Fi device, the GlocalMe G2.<sup>42</sup> uCloudlink has office locations in China, Hong Kong, Europe, and the United States and currently has more than 1,200 employees.<sup>43</sup> In 2017, uCloudlink America generated [REDACTED] in revenue, while Hong Kong uCloudlink generated [REDACTED] in revenue.<sup>44</sup>

23. uCloudlink provides products and services through three brands: GlocalMe, Roaming Man, and uCloudlink (collectively, “uCloudlink hotspot”).<sup>45</sup> Through the purchase or rental of a uCloudlink hotspot, consumers can access secure Wi-Fi in more than 140 countries.<sup>46</sup> uCloudlink hotspots connect to the best local network available through vSIM technology called CloudSIM, so consumers can obtain mobile data without changing the SIM cards in their devices.<sup>47</sup> On the back end, the “uCloudlink CloudSIM service platform maintains local SIM cards of 140+ countries and regions...to provide a high speed and stable network experience for the user.”<sup>48</sup> Purchasers of hotspots can access data after purchasing a Daypass, a data package, or a data subscription.<sup>49</sup>
24. uCloudlink hotspots and associated data services available to be used in the United States can be purchased through the GlocalMe website, Amazon.com, and through uCloudlink direct-to-business customers.<sup>50</sup> Data services purchased through Amazon.com and direct-to-business customers are bundled with the hotspots and cannot be purchased standalone through these channels.<sup>51</sup> The majority of uCloudlink’s bundled device and data service sales in the United States are generated [REDACTED]

<sup>41</sup> <https://www.ucloudlink.com/html/introduction>.

<sup>42</sup> <https://www.ucloudlink.com/html/introduction>.

<sup>43</sup> <https://www.ucloudlink.com/html/introduction>; Deposition of Hua Wei, November 6, 2018: Exhibit 25 [UCLOUDLINK0013622-656 at 627-628].

<sup>44</sup> **Attachment 6; Attachment 7.**

<sup>45</sup> <https://www.ucloudlink.com/html/introduction>.

<sup>46</sup> <https://www.ucloudlink.com/html/introduction>; <https://www.glocalme.com/about/glocalme?lang=en-US&giso=US>; <https://www.roamingman.com/about>. Note that Roaming Man indicates coverage in more than 135 companies.

<sup>47</sup> Deposition of Jianlin Liao, November 5, 2018: Exhibit 20 [UCLOUDLINK0013740-759 at 749].

<sup>48</sup> Deposition of Jianlin Liao, November 5, 2018: Exhibit 20 [UCLOUDLINK0013740-759 at 750].

<sup>49</sup> uCloudlink refers to these data units as a “DayPass” or “Day Pass.” I have referred to these data units as Daypass throughout this Rebuttal Report.

<sup>50</sup> [https://www.glocalme.com/glocalme/where\\_to\\_buy?lang=en-US&giso=US](https://www.glocalme.com/glocalme/where_to_buy?lang=en-US&giso=US);

<https://www.amazon.com/stores/node/10065706011>; [https://www.roamingman.com/order/index/device\\_order](https://www.roamingman.com/order/index/device_order).

<sup>51</sup> <https://www.amazon.com/stores/node/10065706011>; Deposition of Hua Wei, November 6, 2018: p. 33.

approximately [REDACTED] of Skyroam's net revenue for 2017, the year of the hypothetical negotiation.<sup>100</sup>

52. Mr. Martinez erroneously only considered Skyroam's gross profit margin on Daypasses, using a Skyroam [REDACTED] wholesale gross margin percentage as the basis to calculate his claimed royalty rate while ignoring the other costs Skyroam would incur to manufacture, sell and support its devices and Daypasses.<sup>101</sup> Deducting the additional costs necessary to generate Skyroam's sales of Patented Products and Data Services from the [REDACTED] wholesale gross margin results in a profit margin ranging from [REDACTED] to [REDACTED], or incremental profits of approximately [REDACTED] to [REDACTED] per [REDACTED] MB Skyroam Daypass.<sup>102</sup> These per Daypass profits reflect the profits attributable to all of the elements that contributed to sales of the Patented Products and Data Services, before necessary apportionment.

#### b. uCloudlink

53. The revenue and profit for uCloudlink's bundled Accused Products and Data Services in the United States are summarized on **Attachment 6**. From December 2015 through September 2018, uCloudlink recorded sales of bundled Accused Products and Data Services of approximately [REDACTED], resulting in gross profits of approximately [REDACTED] for an average gross margin of [REDACTED]. In 2017, uCloudlink recorded United States sales of bundled Accused Products and Data Services of approximately [REDACTED], resulting in gross profits of approximately [REDACTED] for a [REDACTED] gross margin. I understand that a substantial portion of uCloudlink's revenue in the United States is accused to infringe the '689 patent. In the hypothetical negotiation, uCloudlink would recognize that it would incur operating expenses related to the design, manufacture, sales and customer support for the Accused Products and Data Services, reducing the profit available for payment of a royalty to SIMO. Overall, uCloudlink's United States operations incurred an operating loss averaging [REDACTED] for the period December 2015 through September 2018, and an [REDACTED] for 2017 (see **Attachment 6**).

<sup>100</sup> Calculated as: [2015-2018] = [REDACTED] [2017] = [REDACTED]

<sup>101</sup> Martinez Report: ¶91, ¶95.

<sup>102</sup> Calculated as: [REDACTED]

54. However, I understand the data services revenue presented in the United States income statement does not include [REDACTED] and [REDACTED] [REDACTED] old.<sup>103</sup> Additionally, this data does not include the [REDACTED] [REDACTED].<sup>104</sup> I further understand that uCloudlink does not track [REDACTED] [REDACTED].<sup>105</sup> Therefore, the United States income statements for uCloudlink are less instructive in the hypothetical negotiation for a license to the '689 patent.
55. As uCloudlink does not track [REDACTED], and devices and data services used in the United States may not have been purchased in the United States or captured in the uCloudlink United States income statement, uCloudlink would consider the profit margins of Hong Kong uCloudlink in the hypothetical negotiation.<sup>106</sup> From January 2015 through September 2018, Hong Kong uCloudlink reported sales of devices and data services of approximately [REDACTED] worldwide, resulting in gross profits of approximately [REDACTED] for an average gross margin of [REDACTED] (see **Attachment 7**). Hong Kong uCloudlink's gross margin on data services alone for this period was approximately [REDACTED] (see **Attachment 7**).<sup>107</sup> In 2017, uCloudlink reported device and data services sales of approximately [REDACTED] million worldwide, resulting in gross profits of approximately [REDACTED] for a [REDACTED] gross margin (see **Attachment 7**). Hong Kong uCloudlink's gross margin on data services alone for 2017 was approximately [REDACTED] (see **Attachment 7**).
56. At a minimum, uCloudlink's selling and marketing expenses are necessary to generate sales of the Accused Products and Data Services. Hong Kong uCloudlink selling and marketing expenses for January 2015 through September 2018 total approximately [REDACTED] of net revenue, while selling and marketing expenses for 2017 total approximately [REDACTED] of net revenue (see **Attachment 7**). To determine uCloudlink's profit margin on data

<sup>103</sup> Deposition of Jianlin Liao, November 5, 2018: p. 43-44.

<sup>104</sup> U-CLOUDLINK0344621.

<sup>105</sup> Deposition of Jianlin Liao, November 5, 2018: p. 31, 45 and 53.

<sup>106</sup> Deposition of Jianlin Liao, November 5, 2018: p. 31, 44-45 and 53. The Hong Kong uCloudlink income statement includes [REDACTED] n.

<sup>107</sup> Hong Kong uCloudlink's gross margin on device sales alone was approximately [REDACTED] for the period January 2015 through September 2018 (see **Attachment 7**).

services, I deducted the selling and marketing expense percentages from the gross profit margin for January 2015 through September 2018 and 2017 resulting in an incremental profit margin ranging from approximately [REDACTED]<sup>108</sup>

57. The current retail price of a uCloudlink 300 MB Daypass for use in the United States is \$3.50, or approximately \$0.0117/MB.<sup>109</sup> This revenue per MB calculation assumes that uCloudlink customers only use 300 MB per Daypass and never use throttled data beyond 300 MB. As indicated on **Attachment 9.1**, Skyroam customers during the damages period (August through November 2018) used over [REDACTED] MB per Daypass, using over [REDACTED] MB of throttled data on average. Assuming uCloudlink customers used [REDACTED] MB of data for each Daypass would lower the revenue per MB used to [REDACTED]. Applying an incremental profit margin of [REDACTED] results in uCloudlink incremental profit of approximately [REDACTED] per MB, based on [REDACTED] MB use per Daypass and [REDACTED] based on [REDACTED] MB use per Daypass (see **Attachment 4**). This equates to [REDACTED] per [REDACTED] MB Daypass (based on [REDACTED] MB use) and [REDACTED] per [REDACTED] MB Daypass (based on [REDACTED] MB use) for data used in the United States (see **Attachment 4**).
58. As addressed in *Georgia-Pacific* factor 13 and the critiques of Mr. Martinez below, these incremental profits are prior to apportioning the value related to the patented invention from the profits attributable to components, features, and other contributions to profits unrelated to the patent-in-suit. I understand that “[t]he patentee...must in every case give evidence tending to separate or apportion the defendant’s profits and the patentee’s damages between the patented feature and the unpatented features” or show that “the entire value of the whole machine, as a marketable article, is properly and legally attributable to the patented feature.”<sup>110</sup> The Federal Circuit has indicated that it is not enough to show the patented element is “viewed as valuable, important, or even essential” to the use of the accused products.<sup>111</sup> I further understand that the Federal Circuit has

<sup>108</sup> Calculated as: [REDACTED].

<sup>109</sup> [https://www.glocalme.com/data\\_package/settlement?goodsCode=GlocalMeUS\\_US\\_DP300MB5&lang=en-US&giso=US](https://www.glocalme.com/data_package/settlement?goodsCode=GlocalMeUS_US_DP300MB5&lang=en-US&giso=US). Calculated as: [REDACTED]. Daypass provides [REDACTED] MB data at full speed, and unlimited data thereafter that is throttled to [REDACTED].

<sup>110</sup> *Uniloc USA v. Microsoft*, United States Court of Appeals for the Federal Circuit, Case No. 03-cv-0440, Decided January 4, 2011, p. 48.

<sup>111</sup> *LaserDynamics, Inc. v. Quanta Computer, Inc., et al.* (Federal Circuit, August 30, 2012), p. 25.